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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,978	08/27/2003	Thomas Spies	FHCC:010US	4396

7590 03/30/2006
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EXAMINER

BELYAVSKIY, MICHAEL A

ART UNIT PAPER NUMBER

1644

DATE MAILED: 03/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/648,978

Applicant(s)

SPIES ET AL.

Examiner

Michail A. Belyavskyi

Art Unit

1644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-25 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. Claims 1-25 are pending.

Restriction Requirement

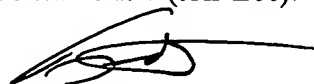
2. Restriction to one of the following inventions is required under 35 U.S.C. § 121:
- I. Claims 1-2 and 4-13, drawn to a method for *ex vivo* expanding a human T-cell population, classified in Class 435, subclass 372.3
 - II. Claims 1-3 and 5-13, drawn to a method for *in vivo* expanding a human T-cell population, classified in Class 424, subclass 578.
 - III. Claims 14-15, drawn to a method for inducing lymphokine secretion from a human cell population that express NKG2D, classified in Class 424, subclass 578.
 - IV. Claim 16, drawn to a method for enhancing an antigen-specific T cell response in a subject, classified in Class 424, subclass 578, Class 435 subclasses 7.1 and 372.3.
 - V. Claims 17-21, drawn to a method for treating cancer, classified in Class 424, subclass 578, Class 435 subclasses 7.1 and 372.3.
 - VI. Claim 22, drawn to a method for treating a viral infection, classified in Class 424, subclass 578, Class 435 subclasses 7.1 and 372.3.
 - VII. Claim 23, drawn to a method for stimulating the immune system of an immunocompromised subject, classified in Class 424, subclass 578, Class 435 subclasses 7.1 and 372.3.
 - VIII. Claim 24, drawn to a method for stimulating an effector function of a lymphocyte, classified in Class 435 subclasses 7.1 and 372.3.
 - IX. Claim 25, drawn to a method for stimulating a memory function of a lymphocyte, classified in Class 424, subclass 578, Class 435 subclasses 7.1 and 372.3.

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4. Groups I- IX are different methods. These inventions are different with respect to ingredients, method steps, and endpoints which require non-coextensive searches ; therefore, each method is patentably distinct.
5. These inventions are distinct for the reasons given above. In addition, they have acquired a separate status in the art as shown by different classification and/or recognized divergent subject matter. Further, even though in some cases the classification is shared, a different field of search would be required based upon various methods of use comprising distinct method steps. Moreover, a prior art search also requires a literature search. It is an undue burden for the examiner to search more than one invention. Therefore restriction for examination purposes as indicated is proper.
6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).
7. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement may be traversed.
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michail Belyavskyi whose telephone number is 571/ 272-0840. The examiner can normally be reached Monday through Friday from 9:00 AM to 5:30 PM. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on 571/ 272-0841 .

The fax number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MICHAIL BELYAVSKYI, PH.D.
PATENT EXAMINER

3/22/06